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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 MARTIN SCHNEIDER, *et al.*,
21 individually and on behalf of all others
22 similarly situated,

23 Plaintiff,

24 v.

25 CHIPOTLE MEXICAN GRILL, INC.,
26 a Delaware corporation,

27 Defendant.

Case No.: 4:16-cv-02200-HSG (KAW)

**DEFENDANT CHIPOTLE MEXICAN
GRILL, INC.'S RESPONSE TO
ORDER TO SHOW CAUSE
REGARDING PLAINTIFFS'
ADMINISTRATIVE MOTION TO
FILE UNDER SEAL**

Judge: Hon. Kandis A. Westmore

Hearing Date: n/a

Action Filed: April 22, 2016

Trial Date: TBD

28 Defendant Chipotle Mexican Grill, Inc. ("Chipotle") respectfully submits its
Response to the Court's Order to Show Cause Regarding Plaintiffs' Administrative
Motion to File Under Seal as follows:

1 1. On September 8, 2017, Plaintiffs filed a letter containing the parties’
2 respective positions on a disputed discovery issue, as required by Paragraph 13 of the
3 Court’s Standing Order. Plaintiffs’ portion of the joint discovery letter was supported
4 by five documents previously designated by Chipotle as “Highly Confidential” or
5 “Confidential,” pursuant to the Protective Order.

6 2. Because the exhibits at issue were not submitted as part of Chipotle’s
7 portion of the parties’ joint discovery letter, Chipotle’s counsel was not focused on
8 them and inadvertently neglected to submit its declarations as the Designating Party
9 and as required by Local Civ. R. 79-5(e)(1). Chipotle’s counsel did not realize their
10 oversight until receipt of the Court’s Order to Show Cause on September 13, 2017.

11 3. Exhibit A to the joint discovery letter is a portion of the transcript of the
12 deposition of Ryan Murrin, Chipotle’s Director of Advertising & Research. As
13 outlined in **Exhibit 1** attached hereto, segments of Mr. Murrin’s deposition contains
14 information that is sealable, pursuant to Local Civ. R. 79-5(b), and, therefore, Exhibit
15 A is properly designated as “Highly Confidential.” *See* F.R.C.P. 26(c)(1)(G); *Barnes*
16 *v. Hershey Co.*, 2015 WL 1814293, at *2 (N.D. Cal. Apr. 21, 2015) (finding good
17 cause to file confidential information concerning defendant’s internal operations,
18 business strategy and finances under seal).

19 4. Exhibit B to the joint discovery letter is a portion of the transcript of the
20 deposition of William Espey, Chipotle’s Brand Voice Lead. As outlined in **Exhibit 2**
21 attached hereto, segments of Mr. Espey’s deposition contains information that is
22 sealable, pursuant to Local Civ. R. 79-5(b), and, therefore, Exhibit B is properly
23 designated as “Highly Confidential.” *See* F.R.C.P. 26(c)(1)(G); *Barnes v. Hershey*
24 *Co.*, 2015 WL 1814293, at *2 (N.D. Cal. Apr. 21, 2015) (finding good cause to file
25 confidential information concerning defendant’s internal operations, business strategy
26 and finances under seal).

27 5. Exhibits C, D and E of the joint discovery letter are three emails that
28 were provided to Plaintiffs in response to a broad ESI search undertaken at Plaintiffs’

1 request in a compressed timeframe, which resulted in the production of
2 approximately 26,000 pages of documents. Given the known sensitive nature of
3 some of the documents that were being produced and the limited time available to
4 Chipotle's counsel to review the document production, the documents at issue were
5 preliminarily designated as "Highly Confidential." Upon further review, and as
6 outlined in **Exhibit 3** attached hereto, Exhibits C, D and E are not sealable, pursuant
7 to Local Civ. R. 79-5(b), and may be de-designated accordingly.

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9 Dated: September 18, 2017

Respectfully Submitted,

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